

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX REFERENCE NO.442 OF 1997

The Commissioner of Income Tax
Pune .. Applicant.

V/s.

Someshwar Sah.S.K. Ltd. .. Respondent.

Mr.A.S. Rao with Mr.Pankaj Kapoor for the applicant.

Mr.S.N. Inamdar with Mr.P. Vaidya for the respondent.

**CORAM : V.C. DAGA &
J.P. DEVADHAR, JJ.**

DATED : 12TH APRIL, 2005.

P.C. :

1. Heard the learned counsel for the applicant.
The Tribunal has referred following questions for the
opinion of this Court, reading as under :

Whether on the facts and in the circumstances of the case the Tribunal, relying on the decision of its Special Bench in the case of Shri Chhatrapati SSK Ltd. (198 ITR 78 - AT) was right in deleting the additions on account of non-refundable deposits, interest on NRD, interest on refundable deposits, cane development fund, Hutment fund, Small saving, small savings (non-members), C.M.'s relief fund, Flood relief fund by holding that the various funds/deposits collected by the assessee society out of the sugarcane purchase price payable to the cane growers are not trading receipts of the assessee ?

2. In so far as all other items except cane development fund are concerned, the issue is covered

by the decision of the Apex Court in the case of **Siddheshwar S.S.K. Ltd. V/s. CIT [(2004) 270 ITR 1 (SC)]** in favour of the assessee and against the revenue. So far as Cane Development Fund is concerned, the issue will have to be referred back to the Tribunal for consideration afresh as per the judgment of the Apex Court in the case of Siddheshwar S.S.K. Ltd. (supra) as such the said issue stand remitted back to the Tribunal for consideration afresh.

3. The reference is disposed of in the above terms with no order as to costs.

(V.C. DAGA, J.)

(J.P. DEVADHAR, J.)